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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In re Application of	)	MM Docket 94-88
	)	
COMMUNITY EDUCATIONAL ASSOCIATION	)	File No. BPED-930316MF
Holly Hill, Florida	)	
	)	
For a Construction Permit for a	)	
New Noncommercial Educational FM	)	
Station on Channel 212A	)	

To: Honorable Joseph Chachkin  
Administrative Law Judge

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

PETITION FOR LEAVE TO AMEND

Community Educational Association ("CEA") by its counsel and pursuant to § 73.3522(b) of the Commission's Rules, offers a post-designation amendment to its application reporting its receipt of an Acknowledgement of Notice of Proposed Construction or Alteration (the "FAA Notice") with respect to its proposed site.

1. CEA amended its application to specify a new site on August 30, 1994. The amendment resolved the mutual exclusivity between CEA's application and the application of Cornerstone Community Radio ("CCR"). See Hearing Designation Order, DA 94-789, released August 2, 1994, (the "HDO"). The Presiding Judge accepted the amendment and granted the CCR application, leaving CEA as the sole applicant in this docketed proceeding. See Memorandum Opinion and Order, FCC 94M-521, released September 13, 1994 (the "MO&O").

2. Upon submission of its amendment, CEA filed an FAA Form 7460-1 with the Federal Aviation Administration ("FAA") so that a study of whether the proposed site would be a hazard to air navigation could be undertaken. The FAA determined that without

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further study, the site will be presumed to be a hazard to air navigation. CEA reported this result to the Commission by way of an amendment to its application filed on October 27, 1994.

3. CEA asked the FAA to commence a further study, in accordance with FAA procedures, to determine the maximum height CEA can build its tower at that site and not be an air navigation hazard. CEA petitions for leave to amend its application to report receipt of confirmation from the FAA that such further study has commenced. Comments from interested parties are due at the FAA no later than November 30, 1994, and a determination can be expected shortly thereafter.

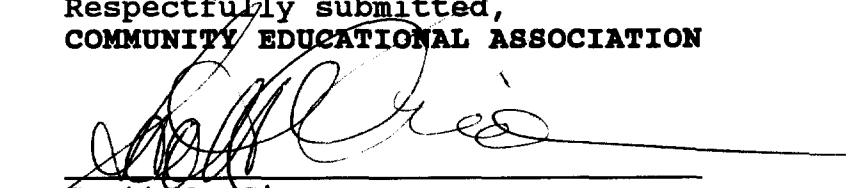
4. As this amendment is being offered more than 30 days after issuance of the HDO, § 73.3522(b) of the Commission's Rules requires a showing of "good cause" before it can be accepted. To satisfy the good cause inquiry, an applicant must demonstrate that it has acted with due diligence, that the amendment was not required by its voluntary act, that no additional issues or parties would be required, that the hearing process will not be disrupted, that there will be no prejudice to competing applicants and that the applicant will not gain a comparative advantage. See California Broadcasting Corp., 90 FCC 2d 800, 808 (1982), citing, Erwin O'Connor, 22 FCC 2d 143, 143 (Rev. Bd. 1970). CEA submits sufficient good cause exists to accept the amendment.

5. CEA continues to diligently work towards resolution of the FAA issue, and submits that the amendment is not the result of its voluntary act, but is based on the FAA's initial examination of CEA's proposed site. CEA's application is the sole remaining

applicant in this docket, and as a result, acceptance of the amendment cannot prejudice competing applicants, will not result in any additional parties or issues, and will not disrupt the hearing process.<sup>1</sup>

WHEREFORE, it is respectfully requested that the Presiding Judge grant CEA's Petition for Leave to Amend and accept its proffered amendment.

Respectfully submitted,  
COMMUNITY EDUCATIONAL ASSOCIATION

  
\_\_\_\_\_  
Scott C. Cinnamon  
Its Counsel

**BROWN NIETERT & KAUFMAN**  
1920 N Street, N.W.  
Suite 660  
Washington, D.C. 20036

(202) 887-0600

November 17, 1994

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<sup>1</sup> An air hazard issue has already been specified against CEA. See HDO, supra.

**COMMUNITY EDUCATIONAL ASSOCIATION**

P.O. Box 847  
Mayaguez, P.R. 00681

November 16, 1994

Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 200554

Re: Application of Community Educational  
Association for New Non-Commercial  
Educational FM Station at Holly Hill, FL  
BPED-930316MF  
Amendment

Dear Sir/Madam:

I, Jose Mercado, President of applicant Community Educational Association, wish to amend our pending application ~~for a new non-commercial educational FM Station to serve Holly Hill, Florida, by reporting receipt of the attached Notice of Aeronautical Study of Proposed Construction or Alteration.~~ CEA has initiated this further study pursuant to the FAA's suggestion.

Sincerely Yours,

*Jose Mercado*

Jose Mercado, President  
Community Educational Association



US Department  
of Transportation  
**Federal Aviation  
Administration**

**SOUTHERN REGION**  
ATTN: ASO-532  
P.O. BOX 20636  
ATLANTA, GEORGIA 30320  
404-305-5588

IN REPLY REFER TO  
**AERONAUTICAL STUDY**  
NO. 94-ASO-2177-OE

## AERONAUTICAL STUDY OF PROPOSED CONSTRUCTION OR ALTERATION

<b>SPONSOR</b>	Community Educational Association c/o Graham Brock, Inc. P.O. Box 24466 St. Simons Island, GA 31522	<b>CONSTRUCTION LOCATION</b>	
		<b>PLACE NAME</b>	
		Ormond Beach, Florida (see reverse)	
		<b>LATITUDE</b>	<b>LONGITUDE</b>
		29°16'44.92"	81°11'24.21"
<b>CONSTRUCTION PROPOSED</b>	<b>DESCRIPTION</b>	<b>HEIGHT (IN FEET)</b>	
		<b>ABOVE GROUND</b>	<b>ABOVE MSL</b>
		195	220
	Antenna Tower (88.1 MHz; 2KW)		

A notice has been filed with the Federal Aviation Administration that the above described structure is proposed for construction. As proposed the structure would exceed the standards of Subpart C of Part 77 of the Federal Aviation Regulations and would be identified as an obstruction to air navigation. Accordingly, the FAA is conducting an aeronautical study of the proposal to determine its effect upon the safe and efficient use of the navigable airspace by aircraft and on the operation of air navigation facilities.

In the study, consideration will be given to all facts relevant to the effect of the proposal on existing and planned airspace use; air navigation facilities; airports; aircraft operations, procedures and minimum flight altitudes; and the air traffic control system. However, only those plans on file with the FAA, on the date the notice concerning the above described proposed construction was received, will be considered.

Interested persons are invited to participate in the aeronautical study by submitting comments to the FAA office issuing this notice. To be eligible for consideration, comments must be relevant to the effect the proposed construction would have on aviation, provide sufficient detail to permit a clear understanding, and be received on or before November 30, 1994. Please refer to the aeronautical study number printed in the upper right hand corner of this notice.

This notice may be reproduced and recirculated by any interested person.

**PRELIMINARY REVIEW:** Exceeds FAR Part 77.23(a)(3) by 81 feet, a height that would require an increase to Ormond Beach Municipal Airport ASR Runway 8 minimum descent altitude (MDA) from 400 feet to 480 feet with visibility for category C and D aircraft increasing an additional quarter of a mile. The ASR Runway 8 circling MDA for category A aircraft would increase from 460 feet to 480 feet.

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The above proposed construction is allowed  
and no objections are indicated.

Typed name of official

Date

Signed

Representing

SIGNED

*Armando Castro*  
Armando Castro  
College Park, Georgia

TITLE

Airspace Specialist, System Management Branch

ISSUED IN

ON

October 31, 1994

**AIRPORT MANAGERS - PLEASE POST  
COMMENTS INVITED**


CERTIFICATE OF SERVICE

I, Scott C. Cinnamon, do certify that on this 17th day of November, 1994, a copy of the foregoing **PETITION FOR LEAVE TO AMEND** was sent via first class mail, postage pre-paid or delivered, as indicated, to the parties set forth below:

Honorable Joseph Chachkin  
Administrative Law Judge  
Federal Communications Commission  
2000 L Street, N.W., Room 221  
Washington, D.C. 20554 \*

Y. Paulette Laden, Esq.  
Hearing Branch  
Federal Communications Commission  
STOP CODE 1800C4  
2025 M Street, N.W., Room 7212  
Washington, D.C. 20554 \*\*

Chief, Data Management Staff  
Audio Services Division  
Mass Media Bureau, FCC  
1919 M Street, N.W., Room 350  
Washington, D.C. 20554

  
\_\_\_\_\_  
Scott C. Cinnamon

- \* - Hand Delivery
- \*\* - via FCC Mailroom